

Message Text

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PAGE 01 MANILA 02275 211210Z

53

ACTION EA-10

INFO OCT-01 ISO-00 AGR-05 CEA-01 CIAE-00 COME-00 DODE-00

EB-07 FRB-03 H-01 INR-07 INT-05 L-02 LAB-04 NSAE-00

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R 210909Z FEB 75

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 0789

LIMITED OFFICIAL USE MANILA 2275

E.O. 11652: N/A

TAGS: EINV, ETRD, RP

SUBJECT: ELIGIBILITY FOR GENERALIZED PREFERENCES

REF: STATE 23558

1. EMBASSY IS NOT AWARE OF ANY NATIONALIZATION CASES EXTANT IN PHILIPPINES. UNTIL EXPIRATION OF LAUREL-LANGLEY, U.S. CITIZENS RECEIVED NATIONAL TREATMENT. SUCH DISAGREEMENTS AS AROSE DURING THIS PERIOD RELATED TO OBLIGATION TO EXTEND NATIONAL RIGHTS IN NEW AREAS, E.G. INVESTMENT INCENTIVES ACT, AND THERE WERE ESSENTIALLY NO CASES INVOLVING DIMINUTION OF RIGHTS IN EXISTING PROPERTY OR BUSINESSES APART FROM SOME INCONCLUSIVE CHALLENGES BASED ON THE RETAIL TRADE ACT. QUASHA DECISION ON LAND, WHITE IT STATED U.S. CITIZENS HAD HAD NO RIGHT TO PURCHASE PRIVATE LANDS DURING LAUREL-LANGLEY PERIOD, DID NOT DEPRIVE U.S. LAND HOLDERS OF VALID TITLES ALREADY ACQUIRED. LIKEWISE, FILIPINIZATION REQUIREMENTS UPON EXPIRATION OF LAUREL-LANGLEY IN BUSINESS AREAS RESTRICTED TO PHILIPPINE COMPANIES HAVE BEEN OR ARE BEING MET BY U.S. COMPANIES, EACH IN ITS OWN FASHION, WITHOUT PRECIPITATE GOVERNMENT ACTION WHICH MIGHT HAVE GIVEN RISE TO U.S. COMPANY NATIONALIZATION CLAIMS.

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PAGE 02 MANILA 02275 211210Z

2. AS DEPARTMENT KNOWS, WE HAVE IN POST-LAUREL-LANGLEY PERIOD A NUMBER OF UNRESOLVED ISSUES REGARDING LAND OWNERSHIP, LEASES, AND RETAIL TRADE DEFINITIONS WHICH COULD ULTIMATELY GIVE RISE TO NATIONALIZATION CLAIMS OR CHARGES OF ACTION CONFISCATORY IN ITS EFFECTS. HOWEVER, AS OF NOW THERE HAVE BEEN NO AMERICANS OR AMERICAN COMPANIES DEPRIVED OF THEIR LAND NOR HAVE U.S. CITIZENS WHO HAVE CONVEYED OR OTHERWISE TERMINATED THEIR INTEREST IN LAND ALLEGED THAT THESE TRANSACTIONS WERE EXPROPRIATORY IN NATURE. FURTHER, THE PHILIPPINE GOVERNMENT HAS NOT TAKEN ANY MOVES AGAINST COMPANIES ENGAGED IN BULK SALES (INCLUDED WITHIN DEFINITION OF RETAIL TRADE AS IT NOW STANDS). WE WILL NOT KNOW WHETHER WE WILL ULTIMATELY HAVE A PROBLEM UNDER SECTION 502(B) 4 OR 6 UNTIL DEFINITIVE DETERMINATION HAS BEEN REACHED AS TO OPTIONS BY WHICH AMERICAN-OWNED LAND OR OTHER PROPERTY MAY BE FILIPINIZED AND UNTIL THERE ARE AMERICANS WHO (A) REJECT AVAILABLE OPTIONS FOR FILIPINIZATION, (B) ARE SUBSEQUENTLY DEPRIVED OF THEIR LAND OR PROPERTY, AND (C) DO NOT RECEIVE ADEQUATE COMPENSATION FOR THEIR LAND OR PROPERTY AS QUOTE ADEQUATE UNQUOTE WOULD ORDINARILY BE DEFINED.

3. WITH RESPECT TO BRINGING OF THESE PROVISIONS OF TRADE ACT TO ATTENTION OF HOST GOVERNMENT OFFICIALS, KEY OFFICIALS ARE FULLY AWARE OF LEGISLATIVE HURDLES, BOTH IN TRADE BILL AND IN OTHER LAWS. GOVERNMENT OFFICIALS HAVE EAGERLY SOUGHT TEXT AND INFORMATION ON TRADE ACT FROM MOMENT OF ITS PASSAGE AND HAVE BEEN STUDYING IT CAREFULLY. WE HAVE ALSO MADE KEY OFFICIALS AWARE OF CONTENTS REFTEL. NATIONALIZATION PASSAGES HAVE BEEN EXPLICITLY COMMENTED UPON IN PRESS ANALYSIS OF TRADE ACT. BELIEVE, THEREFORE, OUR BIT STICK IS VISIBLE ENOUGH AND WILL BE MOST EFFECTIVE IF WE SPEAK SOFTLY FOR TIME BEING.

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